IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1788 of 2003

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/08/2003 in WP NO : 17130 OF 2003 on the file of the High Court.)

Between:

1 Mustafa Husain Raza, S/o. Late Mahmood Hussain
R/o. Mumbai, rep by his General Power of Attorney Holder

Sri S. Sadiq Mohiuddin, S/o. S.A. Mohiuddin,

age : 65 years, R/o. H.No. 5-5-2003, Nampally,

Hyderabad.

2 Mohsin Mehdi Mujtaba, S/o. Mehdi Hussain,
R/o. Mumbai, rep by his General Power of Attorney Holder

Sri S. Sadiq Mohiuddin, S/o. S.A. Mohiuddin,

age : 65 years, R/o. H.No. 5-5-2003, Nampally,

Hyderabad.

..... APPELLANTS

AND

1 The Govt. of A.P., rep by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad.

2 Sri Liaqat Husain Khan, S/o. Late Ahmed Hussain Khan,

R/O. H.NO. 8-4-544/M/70, New Sultan Nagar, Erragadda,

Hyderabad.

3 Smt. Surabhi Jaishree, W/o. Sri S. Bhoom Rao,
R/O. Plot No. 9 & 32, Mani Enclave, J.J. Nagar Colony,

Yapral, Secunderabad.

4 Surabhi Naveen Kumar, S/o. Sri S. Bhoom Rao,
R/O. Plot No. 9 & 32, Mani Enclave, J.J. Nagar Colony,

Yapral, Secunderabad.

5 Sri Gandra Kishen Rao, S/o. Late Papa Rao,
R/O. Plot No. 9 & 32, Mani Enclave, J.J. Nagar Colony,

Yapral, Secunderabad.

.....RESPONDENTS

For the Appellants: MR. G.GOPAL GOVIND NAIK, Advocate.

For Respondent No.1: GP FOR REVENUE

For Respondent Nos. 3 to 5: Mr. K. Mahipathi Rao, Advocate.

The Court made the following Judgment: (per Sri B. Sudershan Reddy, J)

The appellants herein filed the writ petition seeking a writ of Mandamus declaring G.O. Ms. No. 758, Revenue (UC.II) Department dated 7-5-1981 as null and void having been initiated

by fraud.

The Government vide G.O Ms. No. 758 on an application filed by one Smt. Khujitsa Batu Begum, the wife of the 2nd respondent, dated 14-9-1976 granted exemption from the provisions of Chapter III of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'). The exemption was granted with regard to excess vacant land admeasuring 3770.39 square meters covered by items 1, 2 and 5 of the property particulars mentioned in the statement under para 2 of the order passed by the Special Officer and Competent Authority and held by Smt. Khujitsa Batu Begum so as to enable her to dispose of the said land to discharge her liabilities subject to the condition that the applicant shall surrender to the Government the remaining extent of land admeasuring 12,781.51 square meters held by her as 1/3rd share in S.No.58 at Bhahlookhanguda, Hyderabad.

The appellants – writ petitioners assert their title in respect of the said property and stated to have filed a civil suit already and pending in O.S No. 33 of 1998 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad. The Government obviously did not adjudicate any disputes as regards the title in which it had granted exemption. Admittedly, the land in respect of which exemption has been granted by the Government in exercise of its power conferred under Clause (b) of sub-section (1) of Section 20 of the Act was included in the holding of the said applicant and it is on that basis she was found to be holding excess vacant land within the meaning of the provisions of the Act.

Having regard to the facts and circumstances of the case, the Government having exercised its power of exemption granted exemption from the provisions of the Act enabling the said applicant Smt. Khujitsa Batu Begum to dispose of the said properties to discharge her financial liabilities. The order of the Government cannot be judicially reviewed at the instance of the appellants – writ petitioners and they cannot have any legitimate grievance so far as the grant of exemption by the Government exempting the lands in question from the provisions of the Act is concerned. The dispute between the appellants – writ petitioners and the respondents are required to be settled in a properly constituted proceeding for which purposes the appellants have already availed the remedy. It is needless to observe

that the grant of exemption by the Government vide G.O Ms. No. 758 itself shall not have any effect on the merits of the dispute between the parties. It shall have no bearing in adjudication of the suit by the trial Court.

The order of the learned single Judge does not suffer from any infirmities requiring our interference. We accordingly find no merit in the appeal and the same shall accordingly stand dismissed without any order as to costs.

(B. Sudershan Reddy, J)

15-12-2004

(C.V. Ramulu, J)

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To

1 The Govt. of A.P., rep by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad.

2. Two CCs to the Government Pleader for Revenue, High Court of Andhra Pradesh, Hyderabad (OUT).

3 Two CD copies.